

Guide to the Natural Resources Conservation Board Process



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Introduction

This guide explains the process used by Alberta's Natural Resources Conservation Board (the "NRCB" or the "Board") for reviewing project applications. It is intended to assist members of the public who wish to participate (the legal term is "intervene") in an NRCB hearing. The purpose of an intervention is to provide relevant information to assist the Board in its deliberations, whether the intervener is in support of or in opposition to a project.

The NRCB's responsibility is to conduct a fair and open process for reviewing applications for certain proposed projects that affect natural resources in Alberta. Individual members of the public, coalitions of people having a common position on a project, organized public interest groups, and federal, provincial and municipal representatives all have important roles to play in this process. Public participation helps ensure that the NRCB has access to relevant and reliable information from different perspectives when determining if a project is in the public interest.

The NRCB is concerned with the effectiveness and efficiency of its project review. The NRCB is accountable to the Alberta Legislature and, ultimately, to the taxpayers of the province for the careful use of public funds. Therefore, all participants in the NRCB process, including the Board itself, are responsible for using limited resources most effectively. The Board publishes a number of guide documents with suggestions on how interveners and applicants can increase the effectiveness of their participation and, at the same time, contribute to the efficiency of the NRCB process.

This guide summarizes important aspects of the NRCB process and provides assistance to interveners on selected matters. The *Natural Resources Conservation Board Act* and the regulations under that act (particularly the *Rules of Practice*) should be referred to for the specific requirements at each stage of the process.

The Purpose of the NRCB

The NRCB was established by the Government of Alberta to provide an impartial review process for projects that will or may affect the natural resources of Alberta. The NRCB's mandate, as established by the *Natural Resources Conservation Board Act*, is to determine

whether, in the Board's opinion, these projects are in the public interest, having regard for the social, economic and environmental effects of the proposed projects.

NRCB Organization

The NRCB is a quasi-judicial tribunal created by the *Natural Resources Conservation Board Act*. Board members are appointed by Cabinet. In addition, the Chairman may select acting Board members from a list of individuals nominated by Cabinet to assist in the performance of the NRCB duties.

The NRCB has staff to provide legal, clerical, administrative and expert technical services. Two coordinators are appointed from the NRCB staff to oversee the process involved in each project review. *If you are interested in participating in a review, contact a coordinator as early as possible.* The coordinator can inform you of new developments and familiarize you with the various stages of the review process.

Public Involvement

The NRCB review process is an open and impartial public process. The NRCB expects and requires project proponents to involve the public in the development of an application for NRCB approval. Public involvement is also a requirement of Alberta's Environmental Impact Assessment (EIA) process. The NRCB requires applicants to include as part of the NRCB application any EIA directed under the *Alberta Environmental Protection and Enhancement Act (AEPEA)*.

The NRCB's objectives in requiring public participation during the development of applications for submission to the NRCB include:

- facilitating effective communication between all parties prior to public hearings on proposed natural resource developments;
- ensuring that public involvement occurs in such a manner and time that public concerns may be properly addressed and resolved;
- sponsoring and encouraging the use of innovative approaches to the discussion of issues to promote win/win solutions and reduce public hearing time;

- fostering an understanding of the needs and concerns of all those involved in major natural resource developments, including industry, government, and the people of Alberta;
- improving the public's understanding of the requirements for sustainable natural resource developments;
- improving project proponents' understanding of public concerns and priorities;
- facilitating the involvement of those directly affected in the planning for specific reviewable natural resource development projects.

To achieve sustainable natural resource developments that reflect the public interest, there is need for the following kinds of cooperation from the people and communities who may be directly affected:

- Albertans directly affected by specific projects should bring their concerns forward to the project proponent, municipal, provincial and federal government departments, and to the NRCB as early as possible so their concerns may be resolved, if possible, prior to public hearings;
- Albertans are encouraged to participate in all stages of the review process including the environmental assessment process, the application review and the public hearing to ensure their priorities are considered. Consultation opportunities include public meetings, and small-group or one-on-one meetings with government and industry about their concerns with a project;
- in situations where other agencies have jurisdiction to address certain issues but where those issues are important to a development proposal, the NRCB will assist concerned citizens to take their issues to the appropriate people for resolution;
- Albertans who may be directly affected by a project are encouraged to take the steps necessary to understand the development proposal being presented. This may include professional and independent review of an application;

- people directly affected by an application should try to resolve as many issues as possible with the applicant prior to the public hearing and bring only unresolved issues that fall within the NRCB's jurisdiction to the hearing.

Although significant benefits are gained by most Albertans from the development of natural resources, some Albertans do experience negative impacts from those developments. Those Albertans who feel they are directly and negatively affected by a development should have their concerns fully identified and addressed. Effective public participation can make the review process more productive and less confrontational.

Project proponents are required to communicate with the public well in advance of NRCB hearings and to work to resolve public concerns in a proactive way:

- project proponents should explore avenues for problem solving available to them before bringing the unresolved concerns of citizens to an NRCB public hearing;
- project proponents are required to explain to directly affected persons and communities the social, economic and environmental effects expected from the project;
- project proponents are required to begin their public involvement and communication activities when the scope of content of the NRCB application is being developed and well before submission of an application to the NRCB. Effective communication with the public prior to application submission makes the NRCB public hearing process more effective and efficient;
- proponents are encouraged to communicate with public groups concerned with the issues posed by any proposed natural resource development.

Applications to the NRCB must include identification and analysis of public interest issues.

The NRCB proactively informs locally-elected representatives about proposed developments in their areas. (See *Guide to Municipal Participation in the NRCB Review Process*.)

The NRCB has had representations by First Nations at its hearings. The NRCB has recognized that First Nations people have a relationship to the land and natural resources that is special within their culture. Experience has shown that proposed natural resource development projects may have effects on First Nations communities that can only be determined through communication and consultation with the appropriate representatives of First Nations. The NRCB expects that proponents will advise First Nations communities that may be affected by proposed developments of their plans at an early stage so that First Nations may make decisions regarding their interest and participation in the development of the application to the NRCB. The NRCB will also inform First Nations communities about the NRCB review process and the opportunity for their participation at various stages of the review.

When invited, the NRCB will have staff attend key meetings between the project proponents and directly affected people. In some instances, the NRCB may arrange to facilitate discussions between project proponents and the public. If needed, the NRCB will offer to citizen and proponent groups experiencing conflict the opportunity to enter into informal or formal consultation/mediation to resolve outstanding issues. The results and rationale of these efforts would then be placed before the Board for its consideration. A joint proposal that reflects the resolution of one or more issues among parties that would otherwise have represented differing views has a greater likelihood of furthering the public interest and being adopted by the Board.

Project Disclosure

A review is initiated when a project's proponent discloses a reviewable project to the Board.

A proponent advises the NRCB of a proposal if it is a forestry industry project, a metallic or quarriable mineral project, a recreational or tourism project, or a water management project. At the same time, a proponent should also seek advice on regulatory requirements under *AEPEA*, the *Water Resources Act* and land disposition legislation.

During this disclosure phase the proponent discusses the potential project with Alberta Environmental Protection (AEP) and prepares preliminary documents so AEP can decide to apply the environmental assessment process.

Identification of a Reviewable Project

Following the preliminary disclosure of the proposed project, the NRCB will confirm if an NRCB approval is required before starting the reviewable project.

The *Natural Resources Conservation Board Act* and the *Alberta Environmental Protection and Enhancement Act (AEPEA)* establish that the projects identified below must receive NRCB approval before starting:

- forest industry projects to construct a facility to be used to manufacture pulp, paper, newsprint or recycled fibre. Projects with a capacity of more than 100 tonnes per day require an EIA Report under the *AEPEA*;
- water management projects to construct a barrier that exceeds 15 metres, a new canal capable of conducting 15 cubic metres or more per second, a diversion capable of diverting 15 cubic metres or more per second. These projects also require an EIA Report under the *AEPEA*;
- metallic or quarriable mineral projects to construct a mine or quarry producing more than 45,000 tonnes per year. These projects also require an EIA Report under the *AEPEA*; and
- tourism projects to construct one or more facilities for recreational or tourism purposes that are expected to attract more than 250,000 visitors per year and are immediately adjacent to an ecological reserve, a natural area or wilderness area under the *Wilderness Areas, Ecological Reserves and Natural Areas Act*. These projects also require an EIA Report under the *AEPEA*.

For some other projects, the jurisdiction of the NRCB is determined when a discretionary decision is made by the Director of Environmental Protection under the *AEPEA* to require the preparation of an EIA Report.

NRCB approval is required to start a project if an environmental impact assessment has been ordered for construction of the following projects:

- a facility to produce lumber, veneer, panel board or treated wood;
- a mine or quarry or to work and recover any metallic mineral or quarriable mineral as defined in the *Mines and Minerals Act* and the regulations under that act; and
- one or more facilities for recreational or tourism purposes.

The Lieutenant Governor in Council may make regulations prescribing types of projects that are reviewable or direct that a specific project is reviewable.

Content of an Application to the NRCB

The Board is responsible for defining the scope and content of the information to be included in an application.

An application must provide sufficient information for the Board to determine if the proposed project is in the public interest. An application must contain the following information:

- an Environmental Impact Assessment Report containing a description and evaluation of the social, economic and environmental effects as required by Alberta Environmental Protection (see the *Appendices of the Rules of Practice*);
- a statement of the approval applied for from the NRCB;
- the information and particulars of the application;
- a statement of other approvals required to commence the proposed project including the identification of the acts or regulations under which they are required;
- any municipal statutory planning revisions required under the *Municipal Government Act*;
- the reasons the proponent believes the Board should grant approval;

- the name and address of the proponent, its type of business, the location of its head office, and any other relevant aspects of its operations;
- the address in Alberta of the proponent's lawyer or agent to whom communications may be sent;
- any other information the Board may require; and
- if the application has technical reports or material attached, the technical qualifications of the person(s) taking responsibility for such reports.

As a result of Section 619 of the *Municipal Government Act (MGA)*, the NRCB requires all proponents to include a detailed discussion of the municipal land use implications of the proposed project in their applications. Every application to the NRCB must include sufficient information to allow the Board to assess the effects on municipal land use, including effects on municipal development plans, area structure plans, land use by-laws and other municipal by-laws. Information will also be required on subdivision plans, development agreements and conformance with development standards and codes.

The NRCB anticipates that proponents and the public will work cooperatively with municipal authorities to identify and resolve land use concerns.

Integration of the Environmental Assessment Process

The provincial environmental assessment process administered by Alberta Environmental Protection, which may include an Environmental Impact Assessment Report, is intended to:

- support the goals of environmental protection and sustainable development;
- integrate environmental protection and economic decisions at the earliest stages of planning an activity;
- predict the environmental, social, economic and cultural activity and to assess plans to mitigate any adverse impacts resulting from the proposed activity; and



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- provide for the involvement of the public, proponents, government departments and agencies in the review of proposed activities.

The EIA Report contains information on the anticipated social, economic and environmental effects of the project. The Board has regard for this information in its determination of whether the project is in the public interest.

Specific terms of reference are issued by the Director of Environmental Assessment for each EIA Report following a period of public notice and review. Companies must carry out a public consultation program as part of their EIA Report preparation. The results of this program are submitted as part of the EIA Report and include a summary of the views of interested or affected persons.

The NRCB and Alberta Environmental Protection expect that proponents will work cooperatively with the public to identify and resolve concerns pertaining to the social, economic and environmental effects of the proposed project. An Analysis of Issues will be required as part of the EIA Report. It will outline those aspects of the proposed project which were identified as issues by the public during the preparation of the application and which the proponent believes have been resolved through adjustments in the proposal or through other means.

In their Board submission, applicants must also outline those aspects of the proposed project which were identified as issues by the public and which the proponent believes have not been or cannot be resolved prior to an NRCB public hearing. The NRCB requires the applicant to provide an analysis of the prospects for the resolution of each issue or public concern that remains unresolved at the time the application is submitted to the Board. The analysis should include:

- a clear description of the issue and the perspectives of the parties in dispute;
- an account of efforts at resolution, including any solutions proposed and the reasons why they have not been adopted;

- an assessment of what would be required to conclude the matter; and
- any recommendations the applicant may have as to how the Board might deal with the issue in its decision.

Applicants should identify and report on public interest issues raised through the development of the application and during the environmental assessment process. This analysis will become a key document during the subsequent public hearing process.

The NRCB recognizes that at the earliest stages of the review process, key decisions are made by the proponent about the scope and scale of the EIA Report, the issues to be addressed in the assessment, and the kinds of information that must be obtained to address those issues. These decisions shape the subsequent NRCB review and public hearing on the application. The public plays an essential role in these early stages of the review process. By raising issues and commenting on the NRCB application requirements, the public helps to ensure that no issues of concern are omitted in the NRCB review and decision-making process.

Notice of Reviewable Projects

When a project is reviewable by the NRCB and the proponent has been directed to prepare and submit an EIA, the Director of Environmental Assessment will require proponents, when publishing notice of the proposed terms of reference for the EIA Report under *AEPEA*, to include a statement in addition to any requirements under *AEPEA* that:

- the proposed project is reviewable by the NRCB;
- the NRCB will require that the EIA Report be filed with and be included as part of the NRCB application; and
- the terms of reference for the EIA Report request information to assist the NRCB in considering the public interest.

The Director will forward statements of concern received on the terms of reference to the NRCB. Written comments on the NRCB application requirements beyond the EIA Report will also be forwarded.

The Director of Environmental Assessment issues final terms of reference to the proponent for the preparation of the EIA Report.

The NRCB reviews any comments received from the public and the proponent regarding the NRCB application. The NRCB application requirements will include the final terms of reference for the EIA Report issued by the Director of Environmental Assessment. The Board may require additional information and will issue notification to the applicant of the NRCB application requirements to satisfy an assessment of the proposed project.

Preliminary Notice of Application

Immediately following receipt of an application, the Board publishes a *Preliminary Notice of Application* in local and regional newspapers. This preliminary notice is published before the Board has determined whether supplementary information will be required. The preliminary notice briefly describes the subject of the application, states that the application has not yet been completed, and provides the name and address of the applicant (or the applicant's lawyer or agent). The notice also indicates where to obtain copies of the application and supporting information. In addition, the Board generally establishes a mailing list of interested parties and thereafter sends notices directly to them.

Application Deficiency Review Process

When an application is filed with the NRCB, Board staff will assist the Board in determining the completeness of the application. Applicants may then be required to provide additional information to address deficiencies in the application. Copies of the application will be provided to the municipal governments and the federal government. At this stage, the NRCB staff, Alberta Environmental Protection, and the federal government conduct detailed and independent reviews of the application. In conducting a review, Board staff may obtain assistance from independent consultants or from experts seconded to the Board from other government departments.

During the initial review, interested parties outside the NRCB may comment to Board staff regarding

potential problems with the application. In addition, representatives from provincial and federal government departments or from municipalities are likely to forward comments to Board staff. Any comments, concerns or questions that are received are assessed by Board staff in terms of their relevance to the Board's decision-making process and their relationship to the information requirements identified in the *NRCB's Rules of Practice*.

Once Board staff have completed a review of the application, any concerns identified by staff or other parties relevant to the Board's process are included in a letter requesting additional information from the applicant.

The function of the review conducted by the NRCB staff is to assess the information in the application for clarity and completeness. This review does not weigh the value of the information presented, since that is clearly the function of the Board.

Notice of Application

The *Rules of Practice* require the publication of a *Notice of Application* following receipt of a completed application. This includes any supplementary information requested as a result of the deficiency review by the Board, Board staff, and relevant government departments. This *Notice of Application* could include a statement that the project may be approved without a hearing if there are no submissions objecting to the application filed with the Board. These objections must be filed by persons whom the Board considers to be directly affected by the project, or who, in the Board's view have a *bona fide* interest in the matter. Directly affected individuals or groups of individuals who believe that a hearing should be held on an application should submit a written objection to the Board within the time specified in the notice.

Upon receipt of the completed application, however, if the Board is aware of objections to the project, the general practice is to proceed directly to a Pre-Hearing Conference to consider preliminary matters prior to publishing a *Notice of Hearing*. Written objections should be communicated to the Board following publication of the *Preliminary Notice of Application*.

Triggering the Hearing Process

The Board's process includes a public hearing in cases where the Board has determined that a hearing is appropriate or where a *bona fide* written objection has been submitted by a person whom the Board considers to be directly affected. The only exception to this rule occurs when the Board considers the objection to be vexatious or of little merit, in which case a hearing need not be held.

Letters objecting to the project should explain the reasons why people believe they are directly affected by the proposed project, what their concerns are (a brief summary is sufficient), and what effects they believe the project may have. The letters need not be long, but must set out the basic reasons for objecting to the project.

Statutory Requirements Following Receipt of an Application

The *Natural Resources Conservation Board Act* and the *Administrative Procedures Act* require the Board to extend directly affected persons:

- a reasonable opportunity to review information submitted by the applicant and the other parties;
- a reasonable opportunity to provide evidence relevant to the application;
- when appropriate, an opportunity to cross-examine (in the presence of the Board) persons submitting information relevant to the application; and
- an opportunity to make arguments before the Board regarding the project.

The NRCB's review process, including notice provisions, public access to information, and the procedures for public hearings, ensures that these rights are respected.

The Board may extend these opportunities to others as well. While the 'directly affected' test is relevant to a number of elements of the NRCB process, it is not a precondition for participation in that process. The Board has stated that anyone with an established interest in a proposed project may be an intervenor in the process.

The directly affected test is also one of the eligibility criteria for intervenor funding, a topic discussed in a separate NRCB guide. (*Guide to Intervenor Funding*).

Pre-Hearing Conferences

The Board may convene one or more Pre-Hearing Conferences with applicants and intervenors on its own initiative or at the request of a party to the proceeding. The purpose of the Pre-Hearing Conference is to create a public forum for the Board to consider preliminary and procedural matters in advance of a hearing. Pre-hearing Conferences are relatively informal and are often held in the region where the proposed project would be located to allow participation by local intervenors. The Board would publish a *Notice of Pre-Hearing Conference* in local and regional newspapers stating the date, time and location of the meeting. Topics that may be addressed at Pre-Hearing Conferences include:

- (1) the scope of major issues (relevant to a determination of public interest) and other matters to be considered at the hearing;
- (2) a discussion of opportunities for further dialogue among parties to resolve or narrow issues prior to the hearing;
- (3) the exchange of documents;
- (4) procedures to facilitate effective participation;
- (5) familiarizing intervenors with the Board's procedures;
- (6) intervenor funding;
- (7) deadlines for written interventions;
- (8) scheduling and location of the hearing.

Pre-Hearing Conferences offer an important opportunity for intervenors to become involved early in the review process and to participate in shaping that process. They are also an important planning instrument for the Board. If used effectively, Pre-Hearing Conferences can increase the efficiency of the hearing process for all parties.

Interveners who believe they are directly affected by the project and require funding to effectively participate in the review process are strongly encouraged to seek a determination from the Board regarding their eligibility for intervener funding at this stage of the process. This should be done even if they do not seek an advance award of costs prior to the hearing.

Pre-Hearing Public Consultations

The NRCB expects project proponents to consult with the public from the initial project design stage and continue, if necessary, right up to the time of the hearing. This policy is reflected in the application requirements set out in the appendices to the *Rules of Practice*. Applicants are required to describe the process used during the preparation of the application, and the EIA, and their attempts to communicate with and involve the residents of the region, the owners and users of resources that may be affected, and other members of the public. Applicants must also describe the manner in which those views and concerns were addressed in the plans for the project.

The purposes of pre-hearing public consultations are to define and, where possible, resolve issues. Public consultations can significantly increase the efficiency of the NRCB process. In addition, they may lead to a consensual resolution of issues between the project proponent and other participants in the review process. Such resolution has a greater likelihood of furthering the public interest and being adopted by the Board. Public consultation can lay the groundwork for a positive ongoing relationship between the proponent and those persons who are affected by the project. For these reasons, the NRCB strongly recommends that all interested parties participate fully and in good faith in the pre-hearing public consultation process.

Ideally, a hearing will not be required if all of the concerns of directly affected persons are resolved through the consultation process. Even if all concerns cannot be resolved, the public consultations may narrow the range of issues in contention at the hearing and clarify the available options and the positions of the parties. As a result, the length of the hearing may be reduced and its focus restricted to the critical issues.

Notice of Hearing

When a hearing on an application is to be held, notice of the hearing will be published in local and regional newspapers at least thirty days prior to the hearing date. In addition to this formal notification procedure, copies may be mailed directly to individuals and groups on the NRCB's mailing list for the particular project. The *Notice of Hearing* includes:

- a brief description of the subject of the application;
- the time, date and place of the hearing;
- information on how to obtain copies of the application and supporting information;
- the deadline and location for filing submissions with the Board;
- a statement that persons directly affected by the proposed project may apply to the Board for funding to assist in the preparation and presentation of an intervention.

Access to the Application and Other Information

The *Preliminary Notice of Application* and the *Notice of Hearing* include the address of the applicant (or the applicant's lawyer or agent) where the application and additional information may be obtained. They also provide the address of public places where the application and information will be available (usually at regional public libraries and the NRCB office).

The *NRCB Rules of Practice* require the applicant to supply a copy of the application and supporting information to any person with an established interest in the matter. That material must be made available on request at any time from the publication of a notice until the last date provided for filing submissions (in the case of a notice of application) or the date for the hearing (in the case of a *Notice of Hearing*). The Board will settle any dispute that arises over whether a person requesting this material has an "established interest."

These provisions ensure that all persons who might be directly affected by the proposed project can obtain the application and supporting information, and that this material is available for review by any interested



members of the public. Interveners' submissions and supporting materials are also made available by the Board for public examination.

Municipal Government Participation

The *Municipal Government Act (MGA)* provides that Natural Resources Conservation Board approvals prevail over any statutory land use authorizations that may exist in a municipality.

Section 619 of the *MGA* requires municipalities to amend their statutory plans and land use by-laws to conform to approvals from the NRCB and the Alberta Energy and Utilities Board. Municipalities are to undertake any required municipal legislative actions within ninety days of receiving an application to amend their planning instruments.

The NRCB has prepared a *Guide to Municipal Participation in the NRCB Review Process*. This guide is available upon request. (See Appendix B for Section 619 of the *MGA*).

Federal and Provincial Government Participation

Government's role in the Board's process is referred to later in this guide; however, the Board emphasizes that participation by government experts is desirable to clarify the overall regulatory process and the relationship between the NRCB process and other approval processes. In addition, government departments are often a source of valuable information that can contribute to a factual understanding of a project's effects. The Board encourages participation in its process by all government departments having knowledge and expertise relevant to a specific project.

First Nations Participation

The NRCB anticipates that First Nations people that may be affected by proposed natural resource development projects will participate in NRCB proceedings and hearings. Because of the nature of the role played by First Nations in Canada under the *Constitution Act* and other statutory provisions, First Nations have impressed upon the NRCB the importance

of understanding the nature of any project effects on First Nations in the NRCB review and decision process. First Nations people, through direct participation in the NRCB public hearing process, are in a position to provide information and evidence regarding potential effects so that they may be appropriately considered by the Board in determining the public interest.

INTERVENER SUBMISSIONS

Obtaining Standing to Make a Submission to the NRCB

The *NRCB Act* states that status shall be granted to individuals whom the Board determines to be directly affected by the proposed project and that the Board may at its discretion give status to others. In practice, the NRCB has extended status to all parties who have expressed an intent to file a submission with the Board. The Board is interested in obtaining information from all participants who can contribute to an understanding of the social, economic and environmental effects that could be anticipated from a project. Interested parties are requested to register with the Board within the time set out in the *Notice of Hearing*.

Obtaining standing to make a submission to the NRCB concerning a particular project should be distinguished from being found to be eligible for funding under the act's intervener funding provisions. Funding to assist in the preparation and presentation of a submission to the NRCB may be available to certain interveners.

Presenting Submissions

The *NRCB Rules of Practice* require that all parties wishing to intervene in a hearing must file seven copies of their submission with the Board within the time specified in the *Notice of Hearing* (in some cases the Board may request additional copies). A copy must also be provided to the applicant. Interveners will be required to submit summaries of the major issues and conclusions for each submission. Board staff will distribute copies of submission summaries to registered participants.

The submission must be signed by the intervener or the intervener's lawyer or agent and must contain the name and address of the intervener and an address in Alberta where communications may be sent. The submission must also contain a statement to clarify the following:

- whether the intervener believes the application should be approved or rejected and arguments to support that position;
- the information the intervener proposes to present in evidence (including a list of proposed exhibits to be filed and one copy of each exhibit to be filed); and
- an estimate of the time required for the oral presentation and time constraints of any expert witnesses.

If the intervener's participation is to be confined to cross-examination and final argument at the hearing, this intention should be stated in the submission. Finally, if a submission contains a technical report or material of a technical nature, it should set out the qualifications of the person signing or taking responsibility for the report or material.

Interveners should ensure that all information for submissions is filed prior to the date referred to in the *Notice of Hearing*. After that date, additional material may be filed only at the request of, or with leave of, the Board. Interveners' submissions are made available by the Board for examination at public locations.

To make the most effective use of this opportunity, it is important to maintain an understanding of the jurisdiction of the Board and the issues that will be central to the decision-making process. It is also important that interveners narrow the focus in their submission to those issues which will serve to represent key concerns most effectively.

The written submission is the principal means for interveners to put information and arguments before the Board. Written submissions are read by the Board and taken into consideration when the decision report is prepared. Consequently, it is essential that the submission contains a clear and concise statement of the intervener's position on the application and the

reasons for that position. In addition, interveners may wish to suggest reasonable alternatives to the project, ways to alleviate impacts, and conditions they believe should be imposed on the applicant should the project be approved. Interveners should keep in mind that the Board's responsibility to decide whether or not a project is in the public interest means that it must take into account the interests of all Albertans.

The following guidelines are helpful in preparing an effective written submission:

- clearly state the desired disposition of the application and the arguments supporting that position;
- focus on a few key issues or arguments;
- avoid including material that is peripheral to the main issues before the Board or that is unlikely to have a decisive impact on the Board's analysis of the proposed project;
- support all factual statements as fully as possible, and where possible avoid basing arguments on unsubstantiated assumptions or intuitions;
- provide a summary of the submission outlining the major issues to be addressed and the conclusions on each issue; and
- ensure that all the evidence and arguments to be put before the Board are included in the written submission (including a list of exhibits to be filed and a copy of each exhibit) -- the oral presentation to the Board (if the intervener wishes to make one) should only highlight the key points in the written material.

Finally, providing written submissions on computer diskette will assist the Board to review the material and prepare the Decision Report.

Intervener Coalitions

Since participation in the NRCB process can take considerable time and effort, it may be advantageous to form a coalition with others sharing the same views. In addition to sharing the workload among participants, intervener coalitions can increase the efficiency of the NRCB process by reducing the number of individual submissions to be considered.

The Function of a Public Hearing

NRCB hearings provide a public forum for the presentation and testing of environmental, social and economic evidence relating to proposed projects. They also permit the orderly expression of differing points of view by interested parties. In particular, hearings permit applicants to explain the project to the Board and for people affected by the project to state their support or objections in detail. Since participants are expected to present their evidence and arguments as clearly and completely as possible in their written submissions, a principal purpose of the hearing is to permit cross-examination as a means of contradicting or responding to submissions by other parties.

A public hearing has benefits as a means of discussing positions and evaluating evidence on contentious projects. However, hearings on complex projects can be costly and time-consuming for both the Board and the participants. Consequently, the NRCB is conscious of the need to ensure that, in addition to being open and fair, the public hearing process is as efficient as possible. From this perspective, the purpose of the hearing is to provide the Board with the evidence, arguments and points of view that are *necessary* for it to determine whether the project is in the public interest. The efficiency and effectiveness of the process depends on all participants keeping this objective in mind when preparing their submissions.

The Timing and Location of the Hearing

The NRCB attempts to hold its hearings at a time and location convenient for those who wish to participate. Scheduling of the hearing will also depend on the complexity of the project, the length of time required for adequate preparation, and on the cost implications for applicants and other participants.

Hearings are usually held in a meeting room or public hall in a community close to the location of the proposed project to make participation by local interveners from that region easier. The Board has stated that, in general, it does not believe that splitting a hearing on a single project between two locations is an efficient procedure.

The Conduct of the Hearing

Although NRCB hearings are considerably less formal than courtroom proceedings, they do provide a structured format for the presentation of information and argument. Typically, the hearing begins with opening remarks from the Board Chair. These may include a statement of the purpose of the hearing, the introduction of Board members and staff, formal registration of participants and entering of exhibits. If required, preliminary matters such as procedural or legal issues are considered next. Each participant, beginning with the applicant, then presents evidence to the Board and responds to questions or cross-examination by others. Following submissions by interveners, the applicant is permitted to present rebuttal evidence. All parties then present final arguments to the Board, summarizing the principal issues and evidence and outlining the reasons why they believe that the Board should reach a particular decision regarding the application. The interveners' arguments are heard first, and the applicant is then given an opportunity to present a rebuttal. Finally, the Board Chair will close the hearing and, in most cases, announce the deferral of the Board's decision until the release of the Decision Report. The flow chart in Appendix C summarizes the NRCB hearing procedure.

Participation in an NRCB Hearing

The Board has stated that all individuals or groups who have an established interest in the reviewable project and who wish to provide evidence concerning an application before the Board or ask questions of other participants are entitled to do so. All that is required is that those individuals register and make themselves available to participate in the public hearing. Those wishing to participate should register with the Board within the time set out in the *Notice of Hearing*.

The Role of the Applicant

Applicants are expected to address all the matters that the Board must consider to make a decision. In addition to describing the technical features of the project, applicants should submit evidence and

arguments regarding the social, economic and environmental issues that are relevant to the Board's determination of the public interest. The specific information requirements for applications are set out in the *NRCB Rules of Practice*. As with all participants, the Board expects applicants to limit their presentation at the hearing to a brief description of the project and a summary of the evidence contained in the materials filed by the applicant in advance of the hearing. The applicant must also provide a summary indicating why the approval of the project is in the public interest. The applicant's role at the hearing also involves responding to questions and cross-examination from the other participants. An applicant may also seek to rebut evidence presented by interveners who oppose the proposed project.

The Role of Government

Provincial, federal and municipal government officials have participated in the NRCB's process to present information regarding social, economic or environmental matters within their jurisdiction and/or areas of expertise. In some cases, government officials can provide information about approvals likely to be required by a project proponent and the effect of these approvals on an NRCB decision. Most often federal and provincial government submissions neither support nor oppose an application. Municipal submissions may or may not state a position.

Government interventions, like those of other participants, must include the technical qualifications of the person signing or taking responsibility for a report or the material contained in it. Oral presentations must be confined to matters set out in the written submission and cross-examination limited to the scope of the evidence provided in the submission. Government officials would not be available for cross-examination about matters unrelated to their submissions or matters already decided by an approval authority. Additionally, government officials would not be required to respond to questions more properly placed before elected representatives.

The Role of Intervenors

Intervenors participate in hearings either to support or to oppose an application, or to provide relevant information to the Board. Participation may involve putting detailed written submissions before the Board, or it may be limited to cross-examination of other participants and presentation of final arguments. Since the written submissions should contain the substance of intervenors' evidence and argument, a principal function of the hearing is to provide a forum to discuss the content of these submissions in the presence of the Board. The Board is particularly interested in the validity of the evidence before it and in the extent to which the assumptions and arguments made in submissions can be substantiated. Consequently, intervenors make an important contribution at hearings through their responses to questions and cross-examination, and their role in testing the validity of submissions made by other participants.

The Role of Legal Counsel

NRCB hearings are relatively informal, and Board members have considerable expertise in separating technical information from opinion. It is not necessary, therefore, to hire a lawyer to participate effectively in a Board hearing. However, many intervenors do make use of experienced legal counsel to present their cases, particularly if they seek to put complex evidence or legal arguments before the Board or if they want to cross-examine other participants. The decision whether or not to hire a lawyer must be made by each intervenor on the basis of his or her objectives and level of comfort in participating directly in the hearing process.

The Role of Expert Witnesses

Expert witnesses may be used to present social, economic or environmental evidence or to rebut evidence presented by other participants. The usefulness of expert witnesses will depend on the type and complexity of evidence to be presented and on the nature of the issues being addressed. While intervenors need not rely on expert witnesses to present their



evidence, the persuasiveness of that evidence will obviously be increased if it is supported by credible expert opinion. Submissions by experts must include the technical qualifications of the person signing or taking responsibility for the report or material.

The NRCB has recognized that local and indigenous people may have personal knowledge of the proposed project development area. Therefore, persons with such knowledge are encouraged to participate in the public hearing process.

Funding for the Preparation and Presentation of Submissions

Participation in the NRCB process, particularly if legal counsel and expert witnesses are used, can involve considerable cost. The *Natural Resources Conservation Board Act* and regulations under that act provide for intervener funding under certain circumstances. These sections should be referred to directly for the specific funding criteria and procedures. The NRCB has prepared a *Guide to Intervener Funding* dealing specifically with funding criteria and procedures. Copies are available upon request.

The Purpose of Intervener Funding

The Board has taken the position that the primary purpose of the intervener funding provisions of the act is to ensure that "directly affected" parties are able to effectively and efficiently participate in the review. In meeting its statutory duty to conduct its review in a fair and impartial manner, the Board believes that it may be necessary, in established cases, to make certain resources available to individuals or groups of individuals who are or may be "directly affected" by a proposed reviewable project, to assist in the preparation and presentation of an intervention. The Board has therefore, interpreted the provisions of Section 10 of the act in a manner that ensures that individuals or groups of individuals who are or may be "directly affected" by a reviewable project are not prevented from effectively and fairly participating in the review process.

The purpose of an intervention is to provide information that will help and assist the Board in reaching its decision. Intervener funding may be

directed to assist "directly affected" individuals to provide the Board with information regarding those issues which have a direct effect on them and the nature of those direct effects. The Board has not directed intervener funding for the more general purpose of allowing other interested parties to express their views on whether the project is in the public interest.

Hearing Participation and Oral Presentation of Evidence

The *NRCB Rules of Practice* establish basic guidelines for presentations at NRCB hearings. As a general rule, presentations must be made by those persons who prepared the submission, supervised or participated substantially in its preparation, or otherwise have special knowledge of the submission. In the case of technical material, the technical qualifications of the report author must be presented.

The *Rules of Practice* also place limits on the content of presentations. Oral presentations must be confined to matters set out in the written submission, unless the Board directs otherwise.

It should be emphasized that written submissions alone are an acceptable form of participation in NRCB hearings. Oral presentation is not necessary in all circumstances.

Where the Board or other participants require clarification on a written submission, however, the party making that submission may be asked to appear at the hearing to respond to questions. Requests of this type from other participants are channelled through the Board prior to the hearing.

Presentations at NRCB hearings can be an effective way of highlighting important information and arguments, and testing the submissions of other participants. However, un-focused and repetitive presentations can be costly for both the intervener who prepares the presentation, and for the Board and other participants at the hearing, without assisting the Board to decide on the issues before it. Consequently, the Board recommends that interveners keep the following points in mind when considering and making oral presentations at hearings:

- an oral presentation may not be necessary if the intervener's position and evidence are clearly stated in the written submission (the intervener should, however, be available for cross-examination on the submission if required);
- oral presentations should be brief (**normally less than 20 minutes**) and limited to highlighting the most important evidence and arguments in the submission (the Board will have read the written submission in advance);
- as with a written submission, focusing on a few key points is the best approach;
- ensure your issues are relevant to the project being reviewed and structure your presentation to deal with each issue in logical sequence;
- ensure that your position is consistent and clear. Do not leave the Board guessing because of inconsistent statements;
- if the issues in your submission have already been presented, simply note agreement rather than repeating the information;
- when there are conflicting opinions from experts, establish that for the Board. If you are convinced you can help through additional expert information or questions, do so briefly.
- be cooperative with other participants, not only in terms of procedure, but in dealing with the actual issues. If you are prepared to make a concession or to negotiate with respect to an issue, say so;
- if you see an opportunity to resolve certain issues more efficiently outside of the formal hearing process, pursue it, even if it means asking for a delay or adjournment; and
- identify for the Board those conditions that would assist in addressing your concerns if the project were to be approved.

Tendering Documents During a Hearing

Participants may want to tender the documents on which they rely as exhibits at the hearing. *Since the NRCB process seeks to avoid surprise by requiring full disclosure of evidence and arguments prior to the hearing, a listing of exhibits and one copy of each exhibit to be tendered must form part of your written submission.* Another alternative that may be acceptable in some cases is to include the specific excerpt to be relied on with the written submission. The entire document can then be presented at the hearing if it is required to put the excerpt in context. Tendering the full document prior to the hearing is less essential if it is clearly identified in the written submission and is publicly available. In contrast, documents that are not readily available should be tendered in advance if they are to be entered as exhibits at the hearing.

Cross-Examination

Cross-examination is the questioning of a witness called by an opposing party in the hearing, following the presentation of his or her evidence. There are three principal reasons for cross-examination:

- to test evidence by challenging its soundness (e.g., scientific or technical validity), the assumptions upon which it is based, or its logic and internal consistency;
- to show that evidence presented by the opposing witness can, in fact, support one's own case; and
- to question the opposing witness by challenging his or her professional qualifications, expertise, objectivity, direct knowledge of the particular issues before the Board, recollection of relevant events, etc.

The *Rules of Practice* state that witnesses can only be cross-examined by or on behalf of an applicant, an intervener or the Board. Cross-examination is an important component of the NRCB hearing process because it allows participants to test conflicting evidence and competing arguments before the Board. The *Natural Resources Conservation Board Act* specifically provides that persons directly affected by a proposed

project, and other persons where the Board considers it necessary, shall be given the opportunity to contradict or explain information presented by the applicant, and other interveners.

As with other forms of participation in the NRCB process, cross-examination should follow certain guidelines if it is to be conducted in an effective and efficient manner. In particular participants should observe the following guidelines:

- engage in cross-examination only when clearly beneficial (such as directly contradicting, or undermining the persuasiveness of, the evidence or arguments of another participant);
- be as direct as possible, particularly when dealing with scientific and technical information. Convoluted questioning in an attempt to establish an inconsistency has limited value;
- cross-examination should only be done when the answer to be obtained will be directly helpful to the Board in its disposition of the application (cross-examination on minor details or peripheral matters is unlikely to be helpful);
- be familiar with other participants' submissions before engaging in cross-examination, since the question raised in cross-examination may already have been answered;
- refrain from cross-examination directed at submissions with which they are in agreement, since these "sweetheart cross-examinations" generally do not assist the Board and consume valuable hearing time;
- do not be surprised that all parties do not reach the same conclusions; therefore focus cross-examination on matters of fact rather than on interpretation; and
- do not use cross-examination as a means of debate or presenting final argument.

Final Argument

In presenting final arguments, participants should clearly and succinctly state what they view as the most important issues before the Board. They should also briefly summarize the reasons for the conclusion that they believe the Board should reach on these issues, and on the application as a whole. The final argument should not introduce new evidence or revisit in detail the participant's submission.

The Board's Decision-Making Authority

The Board has considerable latitude in deciding on applications. It may, with prior authorization from Cabinet, grant an approval on any terms and conditions that the Board considers appropriate. Alternatively, it may refuse to grant an approval, defer consideration of an application (on terms and conditions determined by the Board), or dispose of the application in any other way that it considers to be appropriate. In summary, the Board has authority on its own to reject or defer applications, but the approval of applications requires Cabinet authorization. That authorization may include additional terms and conditions imposed by Cabinet.

The Decision Report

Following a public hearing, the NRCB reviews all the evidence presented before it reaches a decision. The decision is made public in the form of a decision report written by the Board members. The time required for its release depends on its length and complexity.

In the decision report, the Board provides background information on the project, summarizes the application and supporting information, reviews the positions of the other participants, explains its conclusions on each of the issues before it, and sets out its disposition of the application. If the application is approved, any terms and conditions imposed by the Board are stated in the decision report.

The NRCB Decision and Other Approval Processes

Approval by the NRCB does not dispense with the need to obtain any licenses, permits, approvals or other authorizations from other government departments, agencies or municipalities having regulatory authority over the project.

The NRCB provides an impartial decision-making process to adjudicate applications for the construction of reviewable projects. The Board's function is not that of an ongoing industry regulator. Within the context of the *Natural Resources Conservation Board Act*, the NRCB may place conditions that require approval holders to establish the satisfaction of conditions to ongoing regulatory agencies. Various regulatory agencies under other legislation are in a position to place ongoing regulatory requirements upon project operations and to monitor and inspect the activities of NRCB approval holders.

The NRCB expects that NRCB approval holders will be diligent in fulfilling their obligations and commitments made during the NRCB review process, and will be diligent in meeting all terms and conditions contained within NRCB approvals. However, the NRCB recognizes the need to ensure that the terms and conditions set out in an Approval issued under the *Natural Resources Conservation Board Act* are fulfilled by the approval holder. Should the NRCB become aware of a situation where it is alleged that a condition of a NRCB approval has not been fulfilled, the NRCB would normally engage in discussions with appropriate regulatory agencies to ensure that a reviewable project proceeds in a manner consistent with the terms and conditions contained in the NRCB approval.

Under the *Alberta Environmental Protection and Enhancement Act* some statutory provisions are related to NRCB approvals. Subsequent to an NRCB review, certain approvals may be required under *AEPEA*. In making a decision to issue or refuse to issue an approval under *AEPEA*, the Director must consider any applicable written decisions of the Natural Resources

Conservation Board. In addition, the Director may consider any evidence that was before the Natural Resources Conservation Board.

The Director's decision to issue or refuse to issue an approval under *AEPEA* may be subject to appeal to the Environmental Appeal Board. If the NRCB conducted a review, some limitations are placed on the appeals that may be heard by the Environmental Appeal Board. If in the Environmental Appeal Board's opinion the person submitting the notice of objection received notice of or participated in or had the opportunity to participate in one or more hearings or reviews under the *Natural Resources Conservation Board Act* at which all of the matters included in the notice of objection were considered, then the Environmental Appeal Board must dismiss the notice of objection.

Given the nature of the amendments to the Municipal Government Act, the NRCB anticipates that future NRCB Decision Reports and Approvals granted for projects determined to be in the public interest, will address the land use implications of proceeding with a proposed project in explicit terms. Where the evidence indicates that municipal legislative amendments are required to accommodate a proposed reviewable project, the Board further anticipates that the NRCB Decision Reports and Approvals will likely provide sufficient direction regarding land use matters. Municipalities will then be in a position to respond appropriately to subsequent applications from NRCB approval holders for changes in municipal by-laws and plans.

Appeals

Board decisions may only be appealed on questions of jurisdiction or law. Appeals must be made to the Alberta Court of Appeal. For an appeal to succeed, it is necessary to show that the Board had misconstrued its authority under the *Natural Resources Conservation Board Act* (e.g. did not have legal authority to make the decision) or had failed to respect the legal requirement of procedural fairness in quasi-judicial hearings. The act contains specific provisions governing appeals.



The Municipal Land Use Planning Process

Following an NRCB decision to approve an application with Cabinet authorization, the municipality has land use planning responsibilities. Where the municipal development plan, area structure plan(s), land use by-law(s) or any other by-law can accommodate the proposed project, the proponent would proceed to obtain subdivision and/or development approvals from the municipality in a manner consistent with those plans.

Where the municipal development plan, area structure plan(s), land use by-law(s) or any other by-law cannot accommodate the proposed project, the project proponent would request changes to those plans/by-laws before applying for the necessary subdivision and/or development approvals required to allow the project to proceed. The municipality would consider such a request in the context of the *Municipal Government Act* land use planning provisions and the specific provisions which require the municipality, on application from the holder of an NRCB approval, to

amend the statutory plans and land use by-laws to conform to Cabinet authorized NRCB approvals (see Appendix B).

If a proponent is not satisfied with the content or timing of the municipality's amendments, an appeal may be filed with the Municipal Government Board.

Once the statutory plans and land use by-laws are amended to reflect the NRCB approval, any subdivision or development application would be processed by the municipality in the conventional manner.

Joint Hearing and Pre-Hearing Reviews

Given the nature and size of projects the NRCB reviews, proposed projects may also be subject to review processes conducted by other boards, commissions or agencies at the federal or provincial level. The *NRCB Act* provides that the NRCB may conduct its proceeding jointly or in conjunction with these other bodies (if the proceeding involves a reviewing agency of a jurisdiction outside of Alberta, approval must be obtained from Cabinet).

This guide has been prepared to assist participants to understand the process that would be applicable to most NRCB reviews. It is important to remember that this guide is intended to provide general information and that the Board may choose to vary the general practice on a review-specific basis.

Other publications:

- NRCB Act
- NRCB Rules of Practice
- The NRCB Pre-Hearing Conference
- The NRCB Hearing
- Guide to Municipal Participation in the NRCB Review Process
- Guide to Intervener Funding

APPENDIX A: ALBERTA ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT (AEPEA) - EIA REQUIREMENT

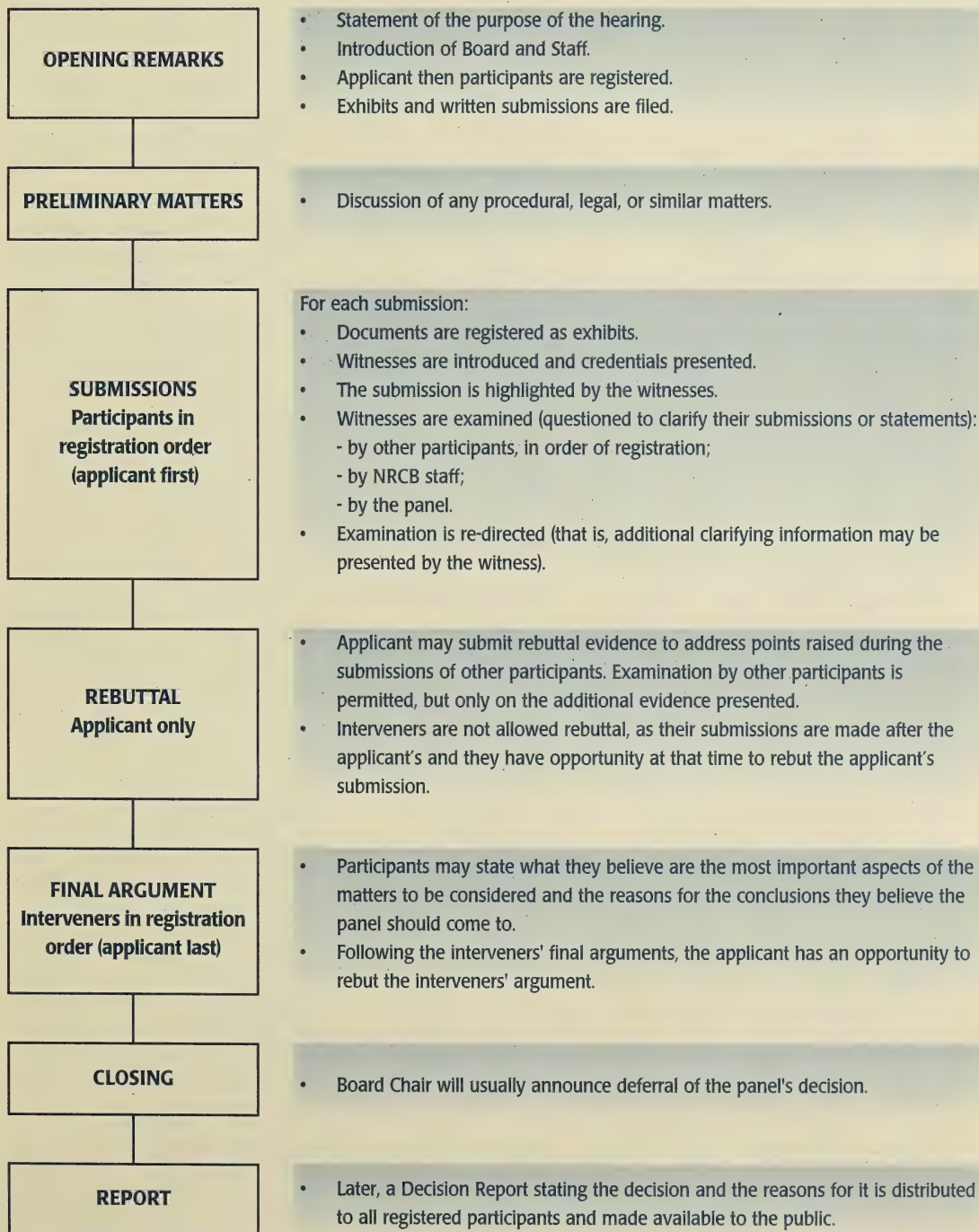
Under the *AEPEA* Section 47, an EIA Report is to include the following information unless the Director provides otherwise:

- (a) a description of the proposed activity and an analysis of the need for the activity;
- (b) an analysis of the site selection procedure for the proposed activity, including a statement of the reasons why the proposed site was chosen and a consideration of alternative sites;
- (c) an identification of existing baseline environmental conditions and areas of major concern that should be considered;
- (d) a description of potential positive and negative environmental, social, economic and cultural impacts of the proposed activity, including cumulative, regional, temporal and spatial considerations;
- (e) an analysis of the significance of the potential impacts identified under clause (d);
- (f) the plans that have been or will be developed to mitigate the potential negative impacts identified under clause (d);
- (g) an identification of issues related to human health that should be considered;
- (h) a consideration of the alternatives to the proposed activity, including the alternative of not proceeding with the proposed activity;
- (i) the plans that have been or will be developed to monitor environmental impacts that are predicted to occur and the plans that have been or will be developed to monitor proposed mitigation measures;
- (j) the contingency plans that have been or will be developed in order to respond to unpredicted negative impacts;
- (k) the plans that have been or will be developed for waste minimization and recycling;
- (l) the manner in which the proponent intends to implement a program of public consultation in respect of the undertaking of the proposed activity and to present the results of that program;
- (m) the plans that have been or will be developed to minimize the production or the release into the environment of substances that may have an adverse effect;
- (n) the final terms of reference issued by the Director under section 46(3);
- (o) any other information that the Director considers necessary to assess the proposed activity.

APPENDIX B: MUNICIPAL GOVERNMENT ACT - SECTION 619

- 619 (1) A licence, permit, approval or other authorization granted by the NRCB, ERCB or AEUB prevails, in accordance with this section, over any statutory plan, land use by-law, subdivision decision or development decision by a subdivision authority, development authority, subdivision and development appeal Board, or the Municipal Government Board or any other authorization under this Part.
- (2) When an application is received by a municipality for a statutory plan amendment, land use by-law amendment, subdivision approval, development permit or other authorization under this Part and the application is consistent with a licence, permit, approval or other authorization granted by the NRCB, ERCB or AEUB, the municipality must approve the application to the extent that it complies with the licence, permit, approval or other authorization granted under subsection (1).
- (3) An approval of a statutory plan amendment or land use by-law amendment under subsection (2)
- (a) must be granted within 90 days of the application or a longer time agreed on by the applicant and the municipality, and
 - (b) is not subject to the requirements of section 692 unless, in the opinion of the municipality, the statutory plan amendment or land use by-law amendment relates to matters not included in the licence, permit, approval or other authorization granted by the NRCB, ERCB and AEUB.
- (4) If a municipality that is considering an application under subsection (2) holds a hearing, the hearing may not address matters already decided by the NRCB, ERCB or AEUB except as necessary to determine whether an amendment to a statutory plan or land use by-law is required.
- (5) If a municipality does not approve an application under subsection (2) to amend a statutory plan or land use by-law or the municipality does not comply with subsection (3), the applicant may appeal to the Municipal Government Board by filing a notice of appeal with the Board.
- (6) The Municipal Government Board, on receiving a notice of appeal under subsection (5),
- (a) must commence a hearing within 60 days of receiving the notice of appeal and give a written decision within 30 days of concluding the hearing, and
 - (b) is not required to notify or hear from any person other than the applicant and the municipality against whom the appeal is launched.
- (7) The Municipal Government Board, in hearing an appeal under subsection (6), may only hear matters relating to whether the proposed statutory plan or land use by-law amendment is consistent with the licence, permit, approval or other authorization granted under subsection (1).
- (8) In an appeal under this section the Municipal Government Board may
- (a) order the municipality to amend the statutory plan or land use by-law in order to comply with a licence, permit, approval or other authorization granted by the NRCB, ERCB or AEUB, or
 - (b) dismiss the appeal.
- (9) Section 692 does not apply when the statutory plan or land use by-law is amended pursuant to a decision of the Municipal Government Board under subsection (8)(a).
- (10) A decision under subsection (8) is final but may be appealed by the applicant or the municipality in accordance with section 688.
- (11) In this section "NRCB, ERCB or AEUB" means the Natural Resources Conservation Board, Energy Resources Conservation Board or Alberta Energy and Utilities Board.

APPENDIX C: NRCB HEARING PROCEDURE





APPENDIX D: NRCB REVIEW PROCESS

Summary of the general review process followed by the Natural Resources Conservation Board (NRCB):

Project Disclosure:	Conducted by the proponent to make parties aware of the proposed project and potential implications.
Confirmation of NRCB Jurisdiction:	<p>The NRCB will determine if its approval is required to commence the project.</p> <p>Most projects reviewed by the NRCB are also required to prepare an Environmental Impact Assessment (EIA) under the <i>Alberta Environmental Protection and Enhancement Act (AEPEA)</i>. The NRCB's jurisdiction for some projects depends upon the requirement by the Director of Environmental Assessment, Alberta Environmental Protection (AEP) for an EIA.</p>
Determining the Content of the NRCB Application:	The NRCB determines what information an application must contain to assess the social, economic and environmental effects of a reviewable project so that it can determine if the proposed project is in the public interest. An NRCB application must include an EIA if one is required under <i>AEPEA</i> .
Application Deficiency Review Process:	The NRCB must independently review the application and identify deficiencies, if any, in the assessment of the social, economic and environmental effects. Where an EIA has been required under <i>AEPEA</i> , the deficiency review is coordinated with AEP. The Director of Environmental Assessment must advise the NRCB that the EIA is complete to fulfill responsibilities under <i>AEPEA</i> .
The Hearing Process:	The NRCB determines if a public hearing is required. The NRCB is required to hold a hearing if a <i>bona fide</i> written objection is received from a party whom the NRCB views as being "directly affected" by the project. Normally, if a hearing is held, it will be preceded by a Pre-Hearing Conference to confirm the scope of the hearing and other issues to be addressed on preliminary and procedural matters.
The Decision:	The NRCB may, with prior authorization from Cabinet, grant an approval on any terms and conditions that the NRCB considers appropriate. The NRCB has authority to deny or defer applications. Cabinet authorization may include additional terms and conditions imposed by Cabinet.
Appeal of NRCB Decisions:	NRCB decisions may only be appealed on questions of jurisdiction or law to the Alberta Court of Appeal.

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